

### REMARKS

Applicants cancel claim 2. Claim 19 has previously been canceled. Claims 1 and 3-18 are pending in this application. Applicants amend claims 1, 17 and 18 for further clarification, and refer to page 10, lines 11-32 in the specification for an exemplary embodiment of and support for the claimed invention. No new matter has been added.

Claims 1-3 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,754,221 to Whitcher et al. in view of U.S. Patent No. 6,738,351 to Qureshi et al.; and claims 4-16 and 18 stand rejected as being unpatentable over Whitcher et al. and Qureshi et al. in view of respective additional combining references. Applicants amend claims 1 and 17-18 in a good faith effort to further clarify the invention as distinguished from the cited references, and respectfully traverse the rejections.

Whitcher et al., again, only describe a technique where the bandwidth for each customer premises equipment is predetermined, and where a memory 102 stores a table (Fig. 3 of Whitcher et al.) of customer premises information associating each customer premises equipment with bandwidth and compression information. Whitcher et al. describe—on col. 13, lines 5-8 thereof—that when customer premises equipment 14 is added to system 10, gateway 18 receives configuration information relating to customer premises equipment 14, and, in response, stores bandwidth and compression information in table 200. Thus, Whitcher et al., as cited and relied upon by the Examiner, clearly do not disclose or suggest “periodically receiving RTCP packets from a second gateway apparatus,” determining “a type of service value based on the received RTCP packets” and transmitting “the type of service value to the packet processing unit to control the packetizing of the packet processing unit,” and determining “a type of encoding based on the received RTCP packets” and transmitting “the type of encoding to the encoding processing unit to control the encoding of the encoding processing unit,” as recited in claim 1.

The Examiner conceded that Whitcher et al. fail to disclose the use of a RTCP packet, and cited Qureshi et al. as a combining reference that allegedly suggests this feature. The cited portions of Qureshi et al.—including col. 15, lines 34-36 thereof—merely describe, however, using RTP measurements for accurate packet loss and delay measurements, based upon which call blocking is performed. Please see, e.g., Figs. 6-7, and col. 16, line 16 et seq. of Qureshi et al. Therefore, Qureshi et al., as cited and relied upon by the Examiner, do not disclose or suggest the above-referenced RTCP packet-based service value and encoding type control features of the claimed invention, and fail cure the deficiencies of Whitcher et al. mentioned above.

Indeed, even assuming, arguendo, that it would have been obvious to one skilled in the art to combine Whitcher et al. and Qureshi et al. at the time the claimed invention was made, such a combination would have, at most, suggested a technique where connected customer premises equipment within a network are respectively assigned predetermined bandwidth, and network conditions, as measured by RTP measurements, dictate call blocking amongst all calls. Such a combination would still have failed to disclose or suggest,

"[a] gateway apparatus which interconnects a first network and an IP network, comprising:  
an encoding processing unit receiving voice data from the first network and generating encoded voice data from the received voice data;

a packet processing unit creating IP packets of the encoded voice data from the encoding processing unit and transmitting the IP packets to the IP network, the packet processing unit periodically receiving real-time transport control protocol (RTCP) packets from a second gateway apparatus via the IP networks;

a network-state estimation unit determining network-state information of the IP network based on the received RTCP packets from the packet processing unit; and

a determination unit controlling, before the transmission of the IP packets, at least the encoding of the voice data by the encoding processing unit based on the network-state information determined by the network-state estimation unit,

wherein the IP packets to be transmitted to the IP network are processed according to the network-state information indicating the state of the IP network, independently of network state of other networks, and wherein the determination unit determines a type of service value based on the received RTCP packets and transmits the type of service value to the packet processing unit to control the packetizing of the packet processing unit, and the determination unit determines a type of encoding based on the received RTCP packets and transmits the type of encoding to the encoding processing unit to control the encoding of the encoding processing unit," as recited in claim 1.

Accordingly, Applicants respectfully submit that claim 1, together with claim 3 dependent therefrom, is patentable over Whitcher et al. and Qureshi et al. for at least the foregoing reasons. Claim 17 incorporates features that correspond to those of claim 1 cited above, and is, therefore, patentable over the cited references for at least the same reasons. The Examiner cited and relied upon additional combining references to specifically address the additional features recited in claims 4-16, which depend from claim 1, and claim 18, which incorporates features that correspond to those of claim 1 cited above. Thus, further combinations with these additional references would still have failed to cure the above-described deficiencies of Whitcher et al. and Qureshi et al., even assuming, arguendo, that such further combinations would have been obvious to one skilled in the art at the time the claimed invention was made. Accordingly, Applicants respectfully submit that claims 4-16 and 18 are patentable over the cited references for at least the above-stated reasons.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,

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Docket No.: 100794-11728 (FUJI 19.030)

DTC:dk